

§ 453.17 Term of the bond.

The amount of any required bond must in each instance be based on funds handled "during the preceding fiscal year," and must be fixed "at the beginning" of an organization's fiscal year—that is, as soon after the date when such year begins as the necessary information from the preceding fiscal year can practicably be ascertained. This does not mean, however, that a new bond must be obtained each year. There is nothing in the Act which prohibits a bond for a term longer than one year, with whatever advantages such a bond might offer by way of a lower premium, but at the beginning of each fiscal year during its term the bond must be in at least the requisite amount. If it is below that level at that time for any reason, it would then be necessary either to modify the existing bond to increase it to the proper amount or to obtain a supplementary bond. In either event, the terms upon which this could best be done would be left to the parties directly concerned.

FORM OF BONDS

§ 453.18 Bonds "individual or schedule in form".

(a) *General consideration.* In addition to such substantive matters as the personnel who must be bonded and the scope and the amount of the prescribed bonds, which have been discussed previously, the form of the bonds is the subject of a specific provision of section 502(a). Under this provision, a bond meeting the substantive requirements of the section may be either "individual or schedule in form." These terms are not specially defined and could be descriptive of a variety of possible forms of bonds. According to trade usage, an individual bond is a single bond covering a single named individual to a designated amount, and bonds "schedule in form" may include either name schedule or position schedule bonds. A name schedule bond is typically a single bond covering a series or list of named individuals, each of whom is bonded separately to a designated amount. A position schedule bond is typically a single bond providing coverage with respect to any occupant or holder of one or more speci-

fied positions during the term of the bond, each office or position being covered to a designated amount. In a statute relating to trade or commerce, it is frequently helpful to consider whatever trade or commercial usages may have developed with respect to the statutory terms.⁹ References to individual, schedule and position schedule bonds may be found in other acts of Congress and indicate a clear awareness of trade usages and terminology in this field.¹⁰

(b) *Particular forms of bonds.* If the phrase "individual or schedule in form" is considered in light of the trade usages, section 502(a) at least permits bonds which are individual, name schedule or position schedule in form. Of course, section 502(a) does not require any particular type of individual or schedule bonds where different types exist or may be developed. It could not be said, for example, that a bond which schedules positions according to similarities in duties, risks, or required amounts of coverage is not "schedule in form" within the meaning of section 502(a) merely because the particular form of scheduling involved was not employed in bonds current at the time the section became law. A more specific illustration would be a bond scheduling shop stewards as a group because of the similar duties they perform in collecting dues, or members of an executive board as a group because of the fact that duties are imposed upon the board as such. A bond of this type would be "schedule in form" within the meaning of section 502(a) and, assuming adequacy of amount and coverage of all persons whom it is necessary to bond, such a bond would be in conformity with the statute. Also, a bond scheduling positions or groups of positions according to amounts of funds handled by occupants of the positions could be viewed as "schedule in form."

(c) *Additional bonding.* Section 502(a) neither prevents additional bonding beyond that required by its terms nor prescribes the form in which such additional coverage may be taken. Thus, so

⁹See 2 Sutherland, *Statutory Construction* (3d ed. 1943) § 4919.

¹⁰Act of August 24, 1954, 68 Stat. 335, 12 U.S.C. 1766(g); Act of August 9, 1955, 69 Stat. 618, 6 U.S.C. 14.

long as a particular bond is schedule in form as to the personnel required to be bonded and schedules coverage of these persons in at least the minimum required amount, additional coverage either as to personnel or amount may be taken in any form either in the same or in separate bonds. A bond which provided name or position schedule coverage for all persons required to be bonded under section 502(a), each scheduled person or position being bonded in at least the required minimum amount, would clearly be "schedule in form" within the meaning of section 502(a) regardless of the extent or form of additional schedule or blanket coverage provided in the same bond.

§453.19 The designation of the "insured" on bonds.

Since section 502 is intended to protect the funds or other property of labor organizations and trusts in which labor organizations are interested, bonds under this section should allow for enforcement or recovery for the benefit of the labor organization or trust concerned by those ordinarily authorized to act for it in such matters. For example, in the case of a local labor organization, a bond would not be appropriate under section 502 if it protected only the interests of a national or international labor organization with which the local labor organization is affiliated or if it designated as the insured only some particular officer of the organization who does not legally represent it in similar formal instruments.

QUALIFIED AGENTS, BROKERS, AND SURETY COMPANIES FOR THE PLACING OF BONDS

§453.20 Corporate sureties holding grants of authority from the Secretary of the Treasury.

The provisions of section 502(a) require that any surety company with which a bond is placed pursuant to that section must be a corporate surety which holds a grant of authority from the Secretary of the Treasury under the Act of July 30, 1947 (6 U.S.C. 6-13), as an acceptable surety on Federal bonds. That Act provides, among other things, that in order for a surety com-

pany to be eligible for such grant of authority, it must be incorporated under the laws of the United States or of any State and the Secretary of the Treasury shall be satisfied of certain facts relating to its authority and capitalization. Such grants of authority are evidenced by Certificates of Authority which are issued by the Secretary of the Treasury and which expire on the June 30 following the date of their issuance. A list of the companies holding such Certificates of Authority is published annually in the FEDERAL REGISTER, usually in July. Changes in the list, occurring between July 1 and June 30, either by addition to or removal from the list of companies, are also published in the FEDERAL REGISTER following each such change.

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§453.21 Interests held in agents, brokers, and surety companies.

(a) Section 502(a) of the Act prohibits the placing of bonds required therein through any agent or broker or with any surety company in which any labor organization or any officer, agent, shop steward, or other representative of a labor organization has any direct or indirect interest. The purpose of this provision, as shown by its legislative history, is to insure against the existence of any "financial or other influential" interests which would affect the objectivity of the action of agents, brokers, or surety companies in bonding the personnel specified in the section.¹¹ It appears, therefore, that it was the intent of Congress to prevent the placing of bonds through agents or brokers, and with surety companies, in which any labor organization or any officer, agent, shop steward, or other representative of a labor organization holds more than a nominal interest.

(b) Since the statute provides that either a direct or indirect interest by a labor organization or by the specified persons may disqualify an agent,

¹¹Daily Cong. Rec. 9114, Senate, June 8, 1959; Record of Hearings before a Joint Subcommittee of the Committee on Education and Labor, House of Representatives, 86th Congress, 1st Session, on H.R. 3540, H.R. 3302, H.R. 4473 and H.R. 4474, p. 1607.